

LABOUR DEPARTMENT

The 9th April, 1980

No. 11(112)-80-3Lab/5605.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Bhupendra Cement Works, Surajpur.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 142 and 192 of 1976

between

THE WORKMEN AND THE MANAGEMENT OF M/S BHUPENDRA CEMENT WORKS
SURAJPUR

Present:—

Shri O. P. Malhotra/Gurbax Singh for the workmen.
Shri Bhagirath Mal for the management.

AWARD

1. By order No. AMB/77-A-75/23098, dated 6th July, 1976 the Governor of Haryana referred the following disputes:—

- Whether the action of the management in employing junior workmen from the casual Labour Pools ignoring the claims of the senior workmen is justified and in order? If not, to what relief the affected workmen are entitled to?
- Whether the pedestrian bridge near Railway Gate and the Safety Bridge under ropeway should be constructed by the management, If so, with what details?
- Whether the visiting room for the guests of the employees should be constructed near main gate of the factory? If so, with what details?
- Whether the workmen (list enclosed) are entitled for higher grades as shown against their names in the said list? If so, with what details?

2. By order No. ID/AMB/22-D-76/33149, dated 6th September, 1976, the Governor of Haryana referred the following dispute:—

Whether 100 workmen working as casual mazdoors should be made permanent according to serial token numbers? If so, with what details?

between the management of M/s Bhupendra Cement Works, Surajpur and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of subsection (1) of section 10 of the Industrial Disputes Act, 1947.

3. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. Then the parties to the reference had made an application for giving award in terms of the settlement that they had reached, to which some workmen had objected. Thereafter the objecting workmen formed a union and objected to the settlement. Then the following issue was framed on 20th May, 1977:—

“Whether the settlement is fair, proper and binding on all the parties and on workmen.

And the case was fixed for the evidence of the management. The management had examined Shri Om Parkash Malhotra, Joint Secretary, Bhupendra Cement Karamchhari Union as MW-1 and Shri Abhai Singh, General Secretary, Bhupendra Cement Workers Union as MW-2 and closed their case. Thereafter the case was fixed for the evidence of the workmen. The workmen examined Shri Gurbaksh Singh as WW-1, Shri Narota Singh their workman as WW-2, Shri Lakh Ram their workman as WW-3, Shri Jasbir Singh, a casual labour of the workman as WW-4. The workmen closed their case. Then the case was fixed for arguments. Arguments were heard. I had decided the said issue against the management,—vide my separate order dated 27th January, 1978 and fixed the case for filing claim statement by the workmen. Claim statement was filed and copy was given to the management. The management moved an application that the dispute have been referred by the Union Govt. for arbitration. The management prayed that the disputes may be dropped. The workmen filed the reply of the application of the management. Then it was fixed for arguments. After granting three adjournments to the parties, arguments were heard. I

decided that application of the management,—*vide* my separate order dated 5th February, 1979. Award of the Arbitrators was considered. It would be worthwhile to mention that Arbitrators were appointed by the Central Government on a national level with the consent of the parties and these parties to these references were also parties to the said arbitration reference. The said National Arbitrators have given their award also. The award of the said arbitrators was unanimous which decided promotion policy holding that seniority-cum-merit should be the general principle in governing the promotions. I held that dispute No. 1 in reference No. 142 of 1976 was not covered by the promotion policy decided by the said arbitrators. Similarly disputes No. 2 and 3 were not covered by the Arbitration award. To some extent it was covered by the promotion policy decided by the said learned arbitrators, but it could not govern the details in fixing higher grades regarding particular workman. The learned arbitrators had also held that fixing of workmen in particular grades could be challenged, if it was based on favouritism, Nepotism victimisation or any other unfair labour practice. Hence it was held,—*vide* the said order of mine dated 5th February, 1979 that dispute number 4 also can proceed for decision on some grounds. Therefore, disputes number 2, 3 and 4 were not held by me as hit by the award of the learned National Arbitrators. As regards reference number 192 of 1976, the management was directed to produce a copy of the gazette in which the award of the board of arbitrators had been published. It was therefore, held that disputes number 2, 3 and 4 in reference number 142 of 1976 shall proceed and after receipt of the copy of the award it shall be decided whether dispute number 1 in reference number 192 of 1976 shall proceed or not. It was further held by the said order that dispute number 1 in reference number 142 of 1976 could be challenged on the ground of favouritism, victimisation or other unfair labour practice.

4. After my order, dated 5th February, 1979 adjournments were obtained several times. On 23rd June, 1979 adjournment was granted for settlement. But no settlement was arrived at. The case was then fixed on 13-3-80. Both the parties had noted this date. The parties appeared on 13th March, 1980. The management appeared through their Personnel Manager Shri K. N. Parshad, Shri O. P. Malhotra appeared for Bhupendra Cement Karamchhari Union and for other workmen named S/Shri Ram Singh, Joint Secretary Mazdoor Ekta Union, Niranjana Singh, Gurbaksh Singh, Mukhtiar Singh also appeared. The management then filed award of the arbitrators as ordered previously and argued that no further proceedings could take place after the said arbitration award. I have seen the arbitration award, It hits the reference number 192 of 1976 regarding which I had previously held that this matter shall be considered after the management files arbitration award. As far reference number 142 of 1976 is concerned, the workmen led no evidence. Sardar Gurbaksh Singh prayed for adjournment Shri O.P. Malhotra had argued that the dispute had been settled after the arbitration award of 1978 as published in the gazette of India. It was given by the Arbitration board. The Government had appointed the arbitrators under section 10(3) (a) of the Industrial Disputes Act and the learned arbitrators gave their award under section 18(3) of the Industrial Disputes Act. The evidence of the workmen was closed. As the reference was pending since 1976 and arbitration award had been given thereafter. But as held by me my said order dated 5th February, 1979, the reference number 142 of 1976 could proceed and its dispute number 1 could proceed only on the ground of favouritism, nepotism or other unfair labour practice but no evidence was produced by the workmen. I, therefore, give my award that the workmen are not entitled to the demands forming disputes under reference number 142 of 1976 and the dispute under reference number 192 of 1976 is barred by the said arbitration award.

5. I, however, also award that the parties shall be binding by the said award of the said arbitrators. I further award that if any dispute arises in the course of implementation of the said arbitrators award or as a result of erroneous implementation, non-implementation or partial implementation of the said arbitration award the workmen shall be at liberty to raise that dispute afresh. I also award that if the fixing of some particular workman in some grade by the management, or ignoring the claim of the senior workman by the management is found to be based on favouritism and nepotism and other unfair labour practice, the workman shall be at liberty to raise that particular dispute afresh. I also award that if the workmen have derived any benefit from any settlement or from the said award of the national arbitrators, the management shall have no right to draw any of the benefits granted or given to the workmen hereto fore.

Dated, the 31st March, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 300, dated 31st March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

List of affected Workmen

Serial No.	Name	T. No.	Department	Present Grade	Grade Demanded
1	Shankar	1184	Canteen	E	D
2	Laxman Dass	1179	Do	E	D
3	Roshan	1182	Do	E	D
4	Goverdhan	1183	Do	E	D
5	Dhani	1172	Do	E	D
6	Amroo	1171	Do	E	D
7	Santa Singh	627	Packing	E	D
8	Lekha Ram	668	Do	D	C
9	Nanak Singh	663	Do	D	C
10	Maghi	616	Do	E	D
11	Chanan Singh	662	Do	E	D
12	Madan Gopal	1284	Do	E	C
13	Narata Singh	732	Do	E	D
14	Bawa Singh	636	Do	C	B
15	Ganeshu Ram	706	Do	D	C
16	Kartara	613	Do	D	C
17	Gurbax Singh	74	Electrician	D	C
18	Inder Ram	70	Do	D	C
19	Baboo Ram	5	Do	D	C
20	Dharam Singh	383	Workshop	C	B
21	Mehma Datt	356	Do	E	A
22	Chaju Ram	368	Do	D	C
23	Mohan Lal	367	Do	C	B
24	Puran Singh	480	Foundry	D	C
25	Jewa Singh	176	Do	E	D
26	Balwant Singh	455	Do	D	C
27	Kishan Lal	873	Civil Engineering	D	C
28	Cheta	816	Do	E	D
29	Hans Raj	207	Mills	E	D
30	Ram Partap	292	Kilin	D	C
31	Rulia	317	Do	C	B
32	Ram Karan	301	Do	C	B
33	Shayam Singh	506	Rope Way	B	A
34	Manoo	100	Do	C	B
35	Ganpat Ram	Staff	M/Gamling	D	C
36	Joginder Singh	959	Office	E	D
37	Dilbagh Singh	960	Do	E	D

Serial No.	Name	T. No.	Department	Present Grade	Grade Demanded
38	Kapoor Chand	..	1316 Office	E	D
39	Tej Ram	..	147 Motor Garage	E	D
40	Sitoo	..	135 Do	E	D
41	Kishna	..	613 Store	E	D
42	Jati Do	E	D
43	Matoo	..	109 Gran	C	B
44	Tulsi	..	636 Packing	E	D

G. L. GUGNANI, Secy.

PUBLIC WORKS DEPARTMENT

BUILDINGS AND ROADS BRANCH

The 23rd March, 1980.

No. 10/86/B and R(E)-(1)-80.—The Governor of Haryana is pleased to declare the following Sub-Divisional Engineers (Electrical and Mechanical) successful in the Departmental Professional Examination held from 14th November, 1979 to 15th November, 1979.

Serial No.	Name	Subject
1	Shri C.M. Anand S.D.E.(Electrical)	.. Exemption already granted in the papers Accounts and office procedure and Viva Voce —vide Government Notification No. 18/184/PWIII(7)-79, dated 20th March, 1979.
2	Shri Subhash Chander Rampal, S.D.E. (Mechanical)	..

3. The Governor of Haryana is also pleased to grant exemption to the following Sub-Divisional Engineers in the papers noted against their names as they have obtained more than 60% marks in these papers in the Departmental Professional Examination held from 14th November, 1979 to 15th November, 1979.

Serial No.	Name	Subject
1	Shri J. P. Suri, S.D.E. (Electrical)	.. (1) Simple Mechanical Engineering
2	Shri Prabhu Dayal, S.D.E. (Electrical)	.. (1) Accounts and Office Procedure (2) Viva Voce
	Shri Gurminder Singh, S.D.E. (Mechanical)	.. (1) Accounts & Office Procedure (2) Viva Voce

H. V. GOSWAMI,
Commissioner and Secretary to Government,
Haryana, Public Works (B.&R.), Branch.